Journal of Forensic and Legal Medicine 21 (2014) 31–37

Contents lists available at ScienceDirect

Journal of Forensic and Legal Medicine

journal homepage: www.elsevier.com/locate/jflm

Original communication

Provision of clinical forensic medical services in Australia: A qualitative survey 2011/12

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ARTICLE INFO

Article history:
Received 15 June 2013
Received in revised form
20 September 2013
Accepted 29 October 2013
Available online 7 November 2013

Keywords:
Forensic physician
Forensic medical examiner
Forensic medical officer
Clinical forensic medicine
Traffic medicine
Sexual offence medicine

ABSTRACT

The provision of clinical forensic medicine services is dependent on jurisdiction and relevant legal instruments. A needs analysis was performed to understand the current service provision within NSW and compare and contrast the service with other jurisdictions in Australia. The aim of this study was therefore to identify the roles, functions and clinical forensic medical services currently provided in the different Australian jurisdictions.

1. Introduction

The provision of clinical forensic medicine services (CFMS) is dependent on jurisdiction and relevant legal instruments. The provision of contemporary clinical forensic medicine globally has been investigated in the past 15 years.[1] There are differences between countries, but also within countries.[2] In Australia there are six States and two Territories all of which have different legislative requirements with varying CFMS (See Fig. 1). Population data referred to below is obtained from the Australian Bureau of Statistics (http://www.abs.gov.au/ausstats/abs@.nsf/mf/3101.0).

The clinical forensic medicine unit (CFMU) of New South Wales Police Force (NSWPF) established in 1982[3] provides medical and scientific services to the NSWPF and other agencies including the State Coroner and the Office of Director of Public Prosecutions. In 2011 the principal role of CFMU was providing expert certificates (reports) on a variety of medico-legal matters (see Table 1). There was little clinical involvement of medical staff in general forensic medical services with a total of 45 call-outs over the year 01/07/2011–30/06/2012.

General forensic medical services are defined in NSW as the assessment of detainees in custody to include the forensic assessment as appropriate. Sexual offence medical services are provided by NSW Health. The role of the forensic physicians and other healthcare professionals in these fields has previously been defined.[4,5]

A needs analysis was performed (by the corresponding author) to understand the current service provision within NSW and compare and contrast the service with other jurisdictions in Australia. The aim of this study was therefore to identify the roles, functions and clinical forensic medical services currently provided in the different Australian jurisdictions.

2. Methodology

A 12 question survey adapted from that used by Payne-James in previous studies[6] was sent to senior forensic physicians (identified from the Forensic and Medical Sexual Assault Clinicians of Australia conference held in Darwin in August 2011) located within each jurisdiction in Australia. Follow-up

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http://dx.doi.org/10.1016/j.jflm.2013.10.019

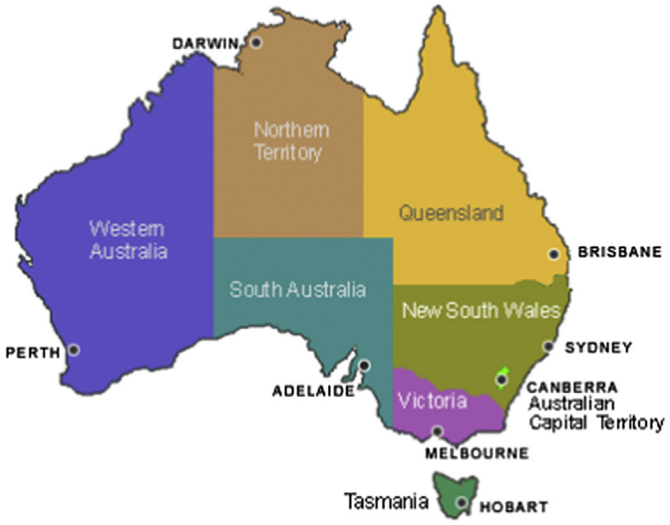

Fig. 1. Map of Australia showing the six States and two Territories.

telephone interviews were performed where required, and where possible, to clarify responses. Questions addressed the following topics:

The care of suspects and complainants including:
- The assessment of individuals detained in police custody;
- The assessment of complainants of adult sexual assault;
- The assessment of children as victims of sexual assault and/or non-accidental injury;

The investigation of complaints against the police including allegations of assault by police;
The methods of investigation of deaths in police custody;
The available training opportunities and qualifications in the area of clinical forensic medicine.

3. Results

Results of responses to the survey questions are reported in below with respect to the individual states and territories, under broad general topic headings. The responses differ in nature and type because of the variability in responses from the individual physicians. In some cases there is a complete absence of data as nobody could be identified to provide the information requested. The authors were highly dependent on the co-operation of individual practitioners.

3.1. Care of suspect and complainants

3.1.1. Australian Capital Territory (ACT)

The ACT has a population of 366 900. All services outlined below are part of ACT Health. Clinical Forensics ACT (CFACT) has a contract to provide medical services to local police 24 h a day, 7 days a week. Medical practitioners (doctors – Forensic Medical Officers (FMO)) and nurses are used depending on the time of day. Nurses are located in the police custody centre on Thursday to Sunday night and at other times calls are taken directly by the FMO on duty. A screening assessment used by custody staff has been developed in conjunction with the clinical service and for any positive response (medical condition or if anyone is on medication) the doctor or nurse are called for advice. Detainees suspected of being under the influence of alcohol or other drugs will have a breathalyser test performed by the 'watch-house keeper' for welfare purposes who will contact the nurse/doctor on duty if he/she has concerns. The CFACT is responsible for the forensic assessment of suspects but under ACT legislation all suspects must be examined by a clinician of the same gender under a 2008 amendment to the Forensic Procedure Act 2000. This creates staffing issues for the service which has one male doctor and all nurses are female.

There are four sites where complainants of adult sexual assault are assessed and examined. These are maintained by the Forensic and Medical Sexual Assault Care (FAMSAC). There is a separate service, the Child at Risk Assessment Unit (CARHU) which performs the assessment of paediatric complainants of sexual/physical assault.

Australian Federal Police (AFP) Professional Standards (PRS) is responsible for resolving complaints about the actions of AFP appointees in accordance with Part V of the Australian Federal Police Act 1979. CFACT doctor will examined complainants of alleged assault by police.

The Commonwealth Ombudsman (http://www.ombudsman.gov.au/pages/about-us/ accessed 15 June 2013) is independent of the police and can investigate complaints about the actions of AFP members and about the policies, practices and procedures of the AFP as an agency. The Ombudsman reports to the Parliament, at least annually, on the comprehensiveness and adequacy of the AFP's complaint handling. If an individual remains dissatisfied after making a complaint to the AFP, a further complaint to the Commonwealth Ombudsman under the Ombudsman Act 1976 may be made.

3.1.2. New South Wales

New South Wales has a catchment population of 7.3 million of whom 4.25 million are in Sydney. In NSW the Law Enforcement (Powers and Responsibilities) Act 2002 (LEPRA) (http://www.austlii.edu.au/au/legis/nsw/consol_act/leara2002451/ accessed 15 June 2013) and the NSW Police Force Code of Practice for CRIME (Custody, Rights, Investigation, Management and Evidence) cover the management of detainees in police custody. The custody

Table 1
Categories of expert certificates provided by the NSW Clinical Forensic Medicine Unit between 01/11/2011 and 30/06/2012 (8 months).

Category	Sub-category	Number
Driving under the influence of drugs and alcohol (DUI)	Alcohol/drugs/drugs & alcohol	811
Traffic – alcohol	All prescribed concentration of alcohol (PCA) Novice, low- mid- or high range	98
Expert medical opinion	Including failure to supply breath samples	47
Criminal	Homicide/traffic/assault/sexual assault/drug facilitated sexual assault/other	51
Coroner		34
Drug possession/supply		11
Practitioner malpractice		2
Interpretation of medical notes		2
Forensic Medical Officer call-out reports		11
Miscellaneous	e.g. poisoning, critical incidents (police)	4

manager makes an initial assessment when a detainee is brought into police custody using a risk assessment questionnaire. If there are concerns about the detainee's physical health he/she is transferred to the local public hospital. The police may make enquiries from the treating doctor, or obtain advice from corrections, if co-located. Intoxicated (whether through alcohol or drugs) detainees are initially assessed by the arresting officer and escorting police. If the detainee is considered to be severely intoxicated he/she must be medically examined by a doctor or registered nurse at a public hospital (in accordance with the Code of Practice CRIME). The custody officer will assess whether a detainee has a psychiatric disorder or mental health problem. The forensic assessment of detainees may be performed by FMOs from the Clinical Forensic Medicine Unit from NSW Police Force in the Sydney Metro area but these assessments are rarely requested ($n = 45$ in 2011/12). Outside of Sydney Metro police contact a local general practitioner (GP) or take the detainee to the emergency department. Response from either may be variable.

NSW Health is responsible for providing a service for complainants of sexual assault.

There are 55 NSW Health funded sexual assault services available 24 h a day and contacted through the local hospitals. Examinations may be performed by forensic physicians, sexual assault nurse examiners, gynaecology registrars, emergency medicine staff, sexual health physicians, or general practitioners. Thus the quality of the examination and the experience of the practitioner may vary widely. The majority of these units will only provide adult examinations or paediatric examinations from 14 years and above. There are a few units that will provide both adult and paediatric examinations.

There are three paediatric child protection units (CPUs) in NSW. In Sydney there are units at Westmead and Randwick, and there is a third centre in Newcastle, north of Sydney. These units perform the assessments of children who are victims of physical and sexual assault and also operate as tertiary referral units for difficult cases. Assessments for physical abuse and neglect of children outside the three CPUs may be done by forensic physicians, GPs and paediatricians who have additional training in this area.

Individuals alleging police assault must attend their general practitioner or the Emergency Department to have injuries documented. Police officers injured on duty attend the local hospital for emergency treatment. Allegations are investigated by local police.

The Police Integrity Commission (PIC – http://www.pic.nsw.gov.au/ accessed 15 June 2013) was established in 1996 by the NSW Parliament on the recommendation of the Royal Commission into the NSW Police Service. It is separate from, and completely independent of, the NSW Police Force and its principal functions are to detect, investigate, and prevent police misconduct, but also misconduct by administrative officers of the NSW Police Force and officers of the NSW Crime Commission.

The NSW Ombudsman (http://www.ombo.nsw.gov.au/what-we-do/about-us accessed 15 June 2013) is an independent and impartial watchdog body that is responsible for overseeing how the NSW Police Force investigates complaints and manages officers who are the subject of a complaint. There are some overlaps of remit with the PIC.

3.1.3. Northern Territory

The catchment population for the Northern Territory is 231 000, of which 127 000 are in Darwin. No information was obtained about the care of suspects in police custody despite repeated attempts to contact police in NT.

For adults in Darwin and Alice Springs complainants of sexual assault are examined by doctors from the Sexual Assault Referral Centre (SARC) or at a hospital if the complainant is unable to travel to a SARC. The SARC in Alice Springs has started to train nurses to undertake examinations due to failure to recruit sufficient doctors. After training the nurses can write statements of fact but are not competent to provide expert opinion. If required the police or DPP will request such an opinion from a SARC doctor.

In Katherine and Nhulunbuy a very small number of doctors have participated in the adult sexual assault training programme run by the Yarrow Place SARC in Adelaide. Complainants in rural areas are seen at local hospitals. In Tennant Creek and other smaller communities if there is a local doctor available to perform the examination he/she is talked through the examination by the on call SARC doctors and the SARC then provides support to write a statement of fact without an opinion. If no doctor is available, or he/she is unwilling, then it is up to the doctor or District Medical Officer to authorise the Patient's Assisted Travel Service (PATS) for the patient to travel to Darwin or Alice Springs where he/she can be examined by the SARC clinicians.

Very rarely, when the complainant declines to travel but is still requesting a forensic examination, an experienced remote nurse may be talked through the examination by a SARC doctor. Currently there are only female doctors on the SARC roster though there have been male doctors in the past. In remote areas there may only be a male doctor and then if the complainant prefers a female, a remote women's health nurse may perform the examination with phone advice, or approval for travel to a SARC would be given.

Children are examined by the SARC services from Alice Springs or Darwin. The doctors, who come from a variety of backgrounds (paediatricians, GPs, emergency physicians and sexual health physicians), have undergone specific training and mentoring in this area, provided by the service in Adelaide.

No information was provided regarding the investigation of police complaints.

3.1.4. Queensland

Queensland has a population of 4 599 400 of which 2 million are in Brisbane and 500 000 in the Gold Coast. Those arrested in the metropolitan areas of Brisbane and the Gold Coast are taken to a watch house (a place where those detained by police are kept/designated police station). On arrival a screening questionnaire is performed by police and if required the on call doctor, a Forensic Medical Officer (FMO) will attend. There is also an FMO covering Ipswich (in South East Queensland 40 km west of central Brisbane), but in other areas a Government Medical Officer (GMO) may be asked to attend, or the detainee is taken directly to the nearest state hospital.

In Brisbane there are forensic nurse examiners who see the detainees in the watch house. In all other areas the nurses are contracted on an hourly basis from the Blue Care Nursing Service – a community based nursing service. The nurses attend the watch house on a daily basis including over the weekend and see all detainees who request to be seen and all detainees identified by the police, forensic mental health practitioner, or a magistrate/judge as needing an assessment. The nurses discuss each patient with the doctor and the doctor will attend, if required. If a hospital assessment is required the detainees are taken to the nearest State run hospital. If admitted there is a high security unit at the Princess Alexandra Hospital (PAHSU). The healthcare service provided to the watch house is also available for remanded prisoners who are in the court cell during the trials, and jurors. The assessment of fitness to be detained in police custody is performed by a forensic nurse examiner or registered nurse in consultation with the FMO or GMO in office hours and the FMO/GMO out of office hours. The forensic assessment of suspects is performed by the FMOs. The choice of sex of the examiner is not always possible. There is a forensic medical health liaison service for the metropolitan watch house during office hours and the FMOs provide the service out of hours.

In Brisbane complainants of sexual assault are seen at the CFMU office or in the specialised suite at one of the major hospitals. In the Gold Coast, Logan and regional areas they are seen in the hospital.

The assessment of children is done by paediatricians in city areas (generally conducted at the Mater Hospital or the Royal Children's Hospital) and then in various areas scattered throughout the remainder of the state (often with GMOs performing the examination in the regional areas).

There are no special arrangements for the examination of police personnel and complainants in allegation of police assault. Individuals are seen at private or public hospitals, or by their GP if non-urgent. The FMO/GMO may be asked to document injuries unless this has already been done by hospital/GP.

Complaints against police are investigated by Queensland Police Service Ethical Standards Command. The Crime and Misconduct Commission (http://www.cmc.qld.gov.au/about-us/our-organisation/fast-facts accessed 15 June 2013) is an independent body that can investigate suspected misconduct of officers in Queensland Police Service.

3.1.5. South Australia

South Australia has a population of 1 659 800 of whom 1.2 million are in Adelaide. There is no established system for the medical assessment of individuals in police custody with regard to fitness to be detained, the assessment substance misusing detainees, or those with mental health problems.

Forensic medical examinations of suspects are performed by the employed police medical officer (an occupational health physician) during office hours unless the suspect is in hospital when the hospital doctor may perform any forensic assessment. Out of office hours and at weekends forensic procedures are performed by arrangement in a private room at a private 24 h emergency hospital.

All public hospitals in Adelaide have refused to perform forensic procedures in the emergency departments (no reason was given for this).

In rural SA the forensic assessments are done after negotiation with the local hospital and GPs. There is currently a trial using registered nurses organised by SA Police.

In Adelaide women and men over 16 years of age are examined at Yarrow Place Rape and Sexual Assault Service. Outside of the capital general practitioners perform adult examinations and occasionally the complainants may travel to Adelaide. Same sex examiners are not always possible but can generally be organised if the complainant is prepared to wait until the next shift of staff comes on duty. All cases involving children are seen at the Child Protection Service Women's and Children's Hospital or at Flinders Hospital in Adelaide.

Complaints against police are investigated by South Australia Police (SAPOL) internal investigators. The Police Complaints Authority (PCA http://sa.gov.au/pca accessed 15 June 2013) receives complaints and takes action in relation to the conduct of SAPOL members, in accordance with the Police (Complaints and Disciplinary Proceedings) Act 1985.

3.1.6. Tasmania

Tasmania has a population of 511 000 of whom 214 000 are in Hobart. There is no established system by which the police and the judicial system are required to obtain a medical assessment of individuals who are detained in police custody. Any assessment is left to the discretion of the police who, if they think it is necessary, will transport the individual to the hospital for a medical assessment. This includes those who the police believe to have a psychiatric disorder, or mental health problems including intellectual disability.

Routine assessments of detainees who are under the influence of alcohol or drugs in police custody to assess their fitness to be detained are not performed. Forensic assessments of alleged perpetrators are performed by police. With regard to complainants of alleged sexual assault there are a group of general practitioners, and increasingly generalist nurses, who perform this role. Requests for the examiner to be of the same sex as the examinee are treated sympathetically but cause time delays in this small jurisdiction. The Royal Hobart Hospital has a dedicated area where complainants of sexual assault are examined or assessed. All cases involving children are dealt with by the paediatrics department at Royal Hobart Hospital.

In cases of alleged assault by police individuals may be examined by a GP or in the emergency department. Forensic pathologists are occasionally asked to examine photographs in cases of alleged assault by police.

Police complaints are initially investigated by police internal affairs. The Ombudsman is an independent officer appointed by the Governor and answerable to the Parliament and will receive complaints regarding the Tasmania Police (http://www.ombudsman.tas.gov.au/about_us/our_role accessed 15 June 2013) so providing an independent investigation function.

3.1.7. Victoria

Victoria has a population of 5 640 900 of whom 4.1 million are in Melbourne. There is no mandated universal examination of everyone who enters police custody but there is a medical service for anyone who has a declared medical condition or develops a problem whilst in custody. This is the responsibility of the Police Custodial Medical Service in Victoria. The forensic assessment of suspects is done by doctors from the clinical unit of the Victorian Institute of Forensic Medicine. The doctors are either full-time consultant forensic physicians, sessional doctors, or registrars in training (from general practice, emergency medicine, or sexual health background). Doctors of both sexes are available but it may not always be possible for a complainant (or suspect) to be examined by a doctor of the same sex. Assessment of fitness to be interviewed, the collection of forensic samples and the documentation and interpretation of injuries are all done by the staff of the CFMU. The doctors from the VIFM will examine complainants of police assault where required and police officers where there are cross allegations.

The Victorian Forensic Paediatric Medical Service, is a statewide service staffed mainly by paediatricians and trainees in paediatrics, undertakes the forensic assessment of child complainants of both physical and sexual assault and neglect. The service is predominantly carried out at the Royal Children's Hospital and Monash Medical Centre and also by paediatricians in regional and rural locations.

Complaints against police are usually investigated by the Ethical Standards Department. The Office of Police Integrity (OPI http://www.opi.vic.gov.au/index.php?i=7&m=1&t=1 accessed 15 June 2013) initially established in November 2004 was an independent body that received complaints about police and conducted investigations into allegations of serious police misconduct and corruption. The Police Integrity Act 2008 required the OPI to refer most complaints to Victoria Police for investigation. As of the 10th of February 2013 the Office of Police Integrity's functions and role has been transferred to the Independent Broad-based Anti-Corruption Commission established in 2011.

The Charter of Human Rights and Responsibilities Act 2006 (the Charter) is legislation designed to promote and protect the human rights of Victorians. The Director, Police Integrity, is required to ensure that members of Victoria Police have regard to the human rights set out in the Charter.

3.1.8. Western Australia

Western Australia has a population of 2 366 900 of which 1.7 million are in Perth. There is no established system in WA by which the police and the judicial system are required to obtain a medical assessment of individuals who are detained in police custody. Any assessment is left to the discretion of the police who, if they think it is necessary, will transport the individual to the hospital for a medical assessment. There is a nurse available in the central 'lock-up' (watch house/designated police station) who assesses individuals to determine if they need to be referred to the emergency department. Forensic specimens are taken by "Choice One" (a nursing agency) nurses who have limited forensic training and are funded and governed by WA Police.

If a detainee appears to have mental health problems whilst detained he/she would be referred to the local ED to be seen by the duty psychiatrist.

In Metropolitan Perth complainants of sexual assault are seen by doctors at the Sexual Assault Resource Centre (SARC); a stand-alone modern building. In rural and regional WA patients are either seen by ED doctors or GPs. There is a programme to train volunteer nurses run by the SARC to perform sexual assault forensic examination and the collection of forensic specimens. Thirty-one nurses have been trained in the country health regions. There are no male doctors at the SARC; efforts have been made to attempt to recruit doctors of both sexes. All cases involving children are seen by doctors from the Child Protection Unit of Princess Margaret Hospital.

Complainants of police assault and police officers injured on duty are seen in ED. Complaints against police are investigated by police internal affairs. The Crime and Corruption Commission (CCC, http://www.ccc.wa.gov.au/AboutCCC/WhoWeAre/Pages/default.aspx accessed 15 June 2013) was established on 1 January 2004, under the Corruption and Crime Commission Act 2003, as a permanent investigative commission with the same powers as a Royal Commission. It investigates when cases of misconduct occur such as when police officers (or other public officials) abuse their authority for personal gain, cause detriment to another person, or act contrary to the public interest.

3.2. The investigation of deaths in police custody

In all areas the State Coroner is responsible for enquiries into deaths in police custody and in 2000 a National Coronial Information System was established (http://www.ncis.org.au/ accessed 15 June 2013). The coroner is usually assisted by police from another local area command independent from the incident or from internal affairs/professional standards.

3.3. Current training opportunities and qualifications in CFM

Clinical Forensic Medicine is not recognised as a medical specialty or subspecialty by the Australian Medical Council (AMC, www.amc.org.au accessed 15 June 2013). The AMC is the national standard body for medical education and training in Australia. Functions include accrediting programs of specialist medical training. There are no nationally agreed mandatory standards for training forensic physicians in either general forensic or Sexual Offence Medicine. Most initial local training is in-house.

Previously many senior Australian doctors travelled to England and took the Diploma of Medical Jurisprudence offered by the Society of Apothecaries (www.apothecaries.org accessed 15 June 2013). This was the only recognised English language qualification in clinical forensic medicine. A number of these doctors were Founding Fellows of the Faculty of Forensic and Legal Medicine of the Royal College of Physicians of London in 2005.

The Australasian College of Legal Medicine (ACLM, accessed 15 June 2013) was established in November 1995 by doctors and dentists who are duly qualified in the law and medicine or dentistry. The ACLM has a number of membership categories including affiliate, associate, member and fellow. Doctors and dentists who are practising legal medicine at a specialist level having completed appropriate training with a degree such as an LLB or LLM in a relevant subject, or equivalent may be awarded membership or fellowship. The ACLM has a Maintenance of Professional Skills/Continuing Professional Development (MOPS/CPD) form to assist members with documenting their continuing medical education.

In Queensland clinical forensic medicine is recognised as an area of advanced credentialed practice[7] using the requirements of the ACLM. The process required is equivalent to that required by other medical specialties. In interstate jurisdictions such as NSW, Victoria and WA Fellows of the ACLM are eligible and have been appointed as staff specialists and senior staff specialists (consultants).

The Forensic and Medical Sexual Assault Clinicians of Australia (FAMSACA www.famsacaustralia.org.au accessed 15 June 2013) was established in 2003 and aims to provide advice and continuing professional education to doctors and nurses working in the field of sexual assault. There is an informative website for members and yearly meetings.

In Australia and New Zealand the lack of specialist recognition led to the formation of the Australasian Association of Forensic Physicians (AAFP, www.forensicphysicians.org accessed 15 June 2013) in an attempt to address this important issue. The AAFP was established in 2009 with the aim of "unifying the practice of Clinical Forensic Medicine, developing a training and career path, defining and setting standards for the discipline and moving towards specialist recognition." The AAFP has produced a training curriculum published in 2009 with three domains: clinical process, medical expertise, ethics and the law. This curriculum has learning objectives with core and non-core competencies outlining the knowledge and skills required.[8] Currently (2013) there are discussions with the Royal College of Pathologists of Australasia to establish a Faculty of Clinical Forensic Medicine.

Monash University in Melbourne runs a Master of Forensic Medicine (http://www.monash.edu/study/coursefinder/course/3412/ accessed 15 June 2013) where it is possible to obtain a Graduate Certificate or Diploma. There are three core modules and a number of elective subjects but there is no requirement to have spent a proscribed time working in the field of clinical forensic medicine. A postgraduate certificate in forensic nursing was previously provided but at the time of writing this has been discontinued.

In 2012 a Unit of Study in Adult Sexual Assault became available from the University of Sydney (http://sydney.edu.au/courses/uos/SEXH5409/adult-sexual-assault accessed 15 June 2013). The course is designed to cover the medical examination required, both therapeutic and forensic, including evidence-based sampling, and be able to complete an expert certificate and provide evidence in court.

4. Discussion

This research has identified the wide variability of services provided and personnel used for CFMS in Australia. Services should be provided, dependent on the various legislative requirements, on an equal basis in all states and territories. This is clearly not the case in Australia. Respondents from sexual assault services were often not aware of any services for suspects.

There is limited research on the nature and quality of clinical forensic medical services worldwide but in general populations

Table 2
A comparison between the England and Wales Codes for assessment of detainees and those of New South Wales.

Police and Criminal Evidence Act 1984 (PACE) and Codes of Practice	NSW Police Force Code of Practice for CRIME
The custody officer must make sure a detainee receives appropriate clinical attention asap if the person: • appears to be suffering from physical illness; or • is injured; or • appears to be suffering from a mental disorder; or • appears to need clinical attention.	Custody manager… Immediately call for medical assistance (in urgent cases send the person to hospital) if someone in custody: • appears to be ill; • is injured; • does not show signs of sensibility and awareness; is unconscious • fails to respond normally to questions or conversation • is severely affected by alcohol or other drugs • requests medical attention and the ground upon which the request is made appears reasonable • otherwise appears in need of attention.

detained in short-term custody are particularly vulnerable[9–11] and at high risk of adverse events, such as deaths in custody. It is essential that medical care and treatment is provided that is at least equivalent to that available in the general community.[12] Howitt previously compared and contrasted the supply of clinical forensic medical services in London and Melbourne[13] noting the low caseload in Melbourne when compared to London. Although this paper was written in 1995 the disparity in caseload still exists. Sturgiss & Parekh have outlined the type of work provided by forensic physicians in Canberra, in the ACT[14] where most of the workload involves the medical review of detainees and not forensic procedures. They comment that it is essential that forensic physicians are skilled in the areas of mental health and substance misuse as these are the main problems encountered.

The situation in the UK is extremely variable[2] and this has led to the Faculty of Forensic and Legal Medicine (FFLM) issuing Quality Standards in Forensic Medicine (General Forensic and Sexual Offence Medicine) in 2010 (most recently updated in July 2013).[15]

In NSW the Law Enforcement (Powers and Responsibilities) Act 2002 (LEPRA) states that a detainee has a right to medical attention (under s129) and the NSW Police Force Code of Practice for Custody, Rights, Investigation, Management and Evidence (CRIME) also provides guidance to custody managers as to the care of persons detained in police custody (see Table 2).

The custody manager performs a screening process/risk assessment of all detainees to identify 'vulnerable persons' and take appropriate action. Research on screening procedures in London shows significant amount of health morbidity is present among detainees in police custody and current police screening procedures detect only a proportion of this.[16]

Suspects or persons of interest detained by police should have access to medical care if required as outlined in International[12] and European[17] standards and the default position of NSWPF is to send all detainees to the emergency department of the local public hospital. But the appropriate forensic assessment of detainees is also essential. Whilst further research may be seen as a requirement to set minimum standards it is suggested that suspects in custody should have access to trained healthcare professionals who can assess the following:

- Fitness for persons to be detained and, in particular, the management of any medical problems that may be encountered in the police environment
- Forensic samples to be taken as appropriate, such as intimate samples (penile swabs and blood samples)
- Documentation and interpretation of injuries for evidential purposes
- Assessment of fitness for interview
- Provision of advice to police on medical matters (telephone triage).

Complainants

- Documentation and interpretation of injuries for evidential purposes in cases of physical assault of both adults and children (non-sexual), victims of robbery, or domestic violence, and police officers injured on duty.
- Forensic samples as appropriate.

In Australia there is different legislation in each State or Territory governing Forensic Procedures which are defined as the ways to obtain evidence that relate to the investigation and prosecution of a crime (see Table 3).

The Crimes (Forensic Procedures) Act 2000 outlines the legislative requirements for the taking of forensic samples both intimate and non-intimate in NSW. Any appropriately qualified police officer or person can perform a forensic procedure but in practice the FMOs are called to perform the intimate forensic procedures. Under section 108 no one is obliged to carry out a forensic procedure (s108) and there is no liability for a forensic procedure (s107).

In 1991 the Royal Commission into Aboriginal Deaths in Custody (RCIADC) produced their final report (http://www.austlii.edu.au/au/other/IndigLRes/rciadic/ accessed 15 June 2013). The Commission had been established in 1987 in response to a growing public concern that deaths in custody of Aboriginal people were too common and poorly explained. A number of recommendations were made. As part of the Australian Government's commitment to implementing the recommendations the Australian Institute of Criminology (AIC) monitors and reports upon trends in deaths in prison, police custody and juvenile detention since 1992.

Why is it important to raise the profile of clinical forensic medicine? Having a properly funded service would prevent deaths in custody and help prevent miscarriages of justice.

In a recent case in the UK a 'police doctor' was cleared of a charge of gross negligence manslaughter after a detainee Andrzej Rymarzak died at Chelsea police station in London in 2009. After the verdict in 2012 the judge said:

"There was never any dispute in this case that the defendant was negligent in the way that he conducted his duties at Chelsea police on that night. He acknowledged that his failure consisted at least of him not rousing a patient who was almost certainly unconscious, examining him for no longer than a minute and not making elementary inquiries into this history whilst in police custody- never looking at the custody record. It should not therefore be thought that the jury's verdict acquits him of fault because it does not."

Training is expensive and time consuming but the clinical risks of poor service provision have been clearly articulated,[18,19] and any service should be underpinned by proper clinical governance procedures.[20] It is essential that the Forensic Medical Officers in NSW fully understand their professional duty in the protection of vulnerable detainees in what can be a coercive setting. The sanction

Table 3
Legislation for Forensic Procedures.

ACT	*Crimes (Forensic Procedures) Act 2000 as amended in 2008*
NSW	*Crimes (Forensic Procedures) Act 2000*
NT	*Police Administration Act & Juvenile Justice Act*
QLD	*Police Powers and Responsibilities Act 2000*
TAS	*Forensic Procedures Act 2000*
SA	*Criminal law (Forensic Procedures) Act 1998 as amended in 2002*
VIC	*Crimes Act 1958 as amended in 2002*
WA	*Criminal Investigation (Identifying People) Act 2002*

of Dr Keilloh, recently erased from the medical register in the UK, is a stark reminder to practitioners of their overriding medical duties.[21] Dr Keilloh was a medical officer with the Queen's Lancashire Regiment in Basra and failed to report injuries sustained by Baha Mousa who later died in British Army custody.

Australia is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Government signed the OPCAT on 19 May 2009, but has not as yet ratified the agreement (http://www.hreoc.gov.au/human_rights/opcat/index.html accessed 15 June 2013). The need for independent oversight of deaths in custody has recently been highlighted.[22]

5. Conclusions

The current provision CFMS in Australia is extremely variable. The assessment and care that suspects/persons of interest and complainants receive when in contact with police or the criminal justice system is dependent on a zipcode lottery. Such a situation must raise the risk of miscarriages of justice, in terms of wrongful convictions, or inappropriate acquittals. The low profile of clinical forensic medicine in Australia and the limited knowledge of what a good service can provide, most particularly in NSW, has had a negative impact on service provision overall where authorities see no need for a CFMS. Absence of a recognised specialty of clinical forensic medicine in Australasia, the disparate nature of professionals involved, and the tyranny of distance, are in part barriers to developing the services nationally.

Further research needs to be done on the development of quality standards for CFMS to ensure professionalism of any service, including robust clinical governance processes underpinning the clinical forensic medical practice. Facilities for examination also need to be improved, in light of the Vincent report into the Jama case[23] where the lack of decontamination protocols played a role in the wrongful conviction of Farah Jama for sexual assault. However none of these improvements can be achieved without the political will for change and the recognition that a clinical forensic medical service in NSW with recognised standards and protocols is required as a matter of urgency in the interests of justice.

Ethical approval

None.

Funding

None declared.

Conflict of interest

Margaret M Stark is the current Director of the CFMU of NSW Police Force.

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